

REMARKS

Claims 4, 6, 11, 13, 15, 17, and 19 have been previously canceled. Claims 1 through 3, 5, 7 through 10, 12, 14, 16, 18, 20, and 21 remain in the application.

35 U.S.C. § 102

Claims 8 through 10, 12, and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Greig (U.S. Patent No. 2,284,419). Applicants respectfully traverse this rejection.

As to patentability, 35 U.S.C. § 102(b) provides that a person shall be entitled to a patent unless:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

A rejection grounded on anticipation under 35 U.S.C. § 102 is proper only where the subject matter claimed is identically disclosed or described in a reference. In other words, anticipation requires the presence of a single prior art reference which discloses each and every element of the claimed invention arranged as in the claim. In re Arkley, 455 F.2d 586, 172 U.S.P.Q. 524 (CCPA 1972); Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 U.S.P.Q. 781 (Fed. Cir. 1983); Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481 (Fed. Cir. 1984).

As to the reference applied by the Examiner, U.S. Patent No. 2,284,419 to Greig discloses a vehicle body. A vehicle body includes a rear panel 10 within which is located a rear deck space or compartment 11. The panel 10 is provided with an opening 12 to permit access to the rear deck space 11, and with a hinged closure or decklid 13 which is adapted to close the opening 12. A moveable or adjustable, and removable unit includes a pair of longitudinally extending transversely spaced channels or members 20 which are mounted on edge upon a

transversely extending channel or frame member 21. A box or storage portion 23 of the unit is formed of pressed metal and comprises a floor 24, side walls 25, and a hinged tail gate or closure plate 26. The tail gate 26 is adapted to be held in closed position by means of releasable spring controlled latches 28 which are carried by the side walls 25 and which engage keeper plates 29 carried by the tail gate 26. A releasable latch means or locking devices are provided for maintaining the box in various longitudinally adjusted positions, together with operating or control means for releasing these latches or locking devices. Each of the side walls 25 of the box-like member 23 is provided with spaced brackets 41 and 42 for supporting in substantially horizontal position, a rod 43. The outer end of the rod 43 extends through a longitudinal hole or opening formed in the rear end of the wall 25 and is bent upwardly at 44 to provide a handle portion for the rod 43. The inner end of the rod 43 has an offset end 45 which engages in the looped upper end 47 of a spring pressed locking pin 46. Greig does not disclose a decklid to close an upper portion of the open end of the rear storage area in a closed position and a load floor including a rear panel that closes a lower portion of the rear storage area when in the upright closed position, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area.

In contradistinction, claim 8 claims the present invention claimed as an integrated extendable load floor assembly for a vehicle having a rear storage area with an open end. The integrated extendable load floor assembly includes a decklid adapted to be pivotally secured to the vehicle for pivotal longitudinal movement rearward to close an upper portion of the open end of the rear storage area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the open end of the rear storage area in an open position. The integrated extendable load floor assembly also includes at least one rail adapted to be disposed upon a side of the rear storage area. The integrated extendable load floor assembly includes a

load floor cooperating with the at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle. The integrated extendable load floor assembly includes a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a lower horizontal open position. The rear panel closes a lower portion of the rear storage area when in the upright closed position adjacent a rear of the vehicle, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area. The integrated extendable load floor assembly further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to vehicle structure to latch the load floor in a closed position. The load floor latching mechanism includes a movable handle disposed on the load floor.

Greig '419 does not disclose or anticipate the claimed invention of claim 8. Specifically, Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a decklid to close an upper portion of the open end of the rear storage area in a closed position and a load floor including a rear panel that closes a lower portion of the rear storage area when in the upright closed position, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area.

In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to

close the opening 12. The word "cooperate" is defined in the Webster's New Collegiate Dictionary on page 247 (copy attached to this Amendment) as "to act together". As admitted by the Examiner on page 3 of the Office Action, the decklid 13 closes the opening of Greig '419. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

Greig '419 fails to disclose the combination of an integrated extendable load floor assembly for a vehicle including a decklid adapted to be pivotally secured to the vehicle for pivotal longitudinal movement rearward to close an upper portion of the open end of the rear storage area in a closed position, a load floor cooperating with the at least one rail allowing for a selective sliding movement in and out of the rear storage area of the vehicle including a rear panel that closes a lower portion of the rear storage area when in the upright closed position adjacent a rear of the vehicle, wherein the decklid and the rear panel cooperate together to close the open end of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position and including a movable handle disposed on the load floor as claimed by Applicants. The reference fails to disclose each and every element of the claimed combination of an integrated extendable load floor assembly for a vehicle as arranged in the claims and claimed by Applicants. Therefore, it is respectfully submitted that claim 8 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

As to claim 21 claims the present invention as a sedan type automotive vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a cargo area with an opening. The sedan type automotive vehicle also includes a load floor for sliding movement in and out of the cargo area and an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position. The

endgate closes a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle. The sedan type automotive vehicle includes a decklid pivotally secured to the sides and cooperating with the endgate for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to allow access to the cargo area in an open position and to allow objects to be removed from the cargo area when the decklid is in the open position. The decklid and the endgate cooperate together to close the opening of the cargo area. The sedan type automotive vehicle further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to vehicle structure to latch the load floor in a closed position.

Greig '419 does not disclose or anticipate the claimed invention of claim 21. Specifically, Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks an endgate closing a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle and a decklid cooperating with the endgate to close an upper portion of the opening of the cargo area in a closed position, wherein the decklid and the endgate cooperate together to close the opening of the cargo area.

In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. The word "cooperate" is defined in the Webster's New Collegiate

Dictionary as "to act together". As admitted by the Examiner on page 3 of the Office Action, the decklid 13 closes the opening of Greig '419. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

Greig '419 fails to disclose the combination of a sedan type automotive vehicle including an endgate pivotally connected to a load floor with the endgate closing a lower portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, a decklid pivotally secured to the vehicle and cooperating with the endgate to close an upper portion of the opening of the cargo area in a closed position, wherein the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position within the cargo area as claimed by Applicants. The reference fails to disclose each and every element of the claimed combination of a sedan type automotive vehicle as arranged in the claims and claimed by Applicants. Therefore, it is respectfully submitted that claim 21 is allowable over the rejection under 35 U.S.C. § 102(b).

35 U.S.C. § 103

Claims 1 through 3, 5, and 20 were rejected under 35 U.S.C. § 103 as being unpatentable over Mayer (U.S. Patent No. 3,004,790) in view of Greig '419 and Klar (U.S. Patent No. 5,692,792). Applicants respectfully traverse this rejection.

As to patentability, 35 U.S.C. § 103 provides that a patent may not be obtained:

If the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Id.

The United States Supreme Court interpreted the standard for 35 U.S.C. § 103 in Graham v. John Deere, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). In Graham, the Court stated that under 35 U.S.C. § 103:

The scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or non-obviousness of the subject matter is determined. 148 U.S.P.Q. at 467.

Using the standard set forth in Graham, the scope and content of the prior art relied upon by the Examiner will be determined.

U.S. Patent No. 3,004,790 to Mayer discloses an article carrier for an automobile trunk compartment. An article carrier 20 is normally nested within a compartment 12 of an automobile body rear portion 10 and is shiftable along a floor 14 in the nested position out of the open end of the compartment 12 to an extended position. A pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. The article carrier 20 includes a front panel 22, which closes the open end of the compartment 12 when the carrier 20 is in the nested position. The front panel 22 is connected along its lower end by a hinge 24 to the rearward end of a floor panel 26 for movement from the upstanding position to the lay-down horizontal position. Means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover. The means consist in supporting rollers 38 carried in brackets 40 which depend from the under face of the floor panel 26 and guide rollers 42 which roll in a channel shaped track ways 44 provided on the under face of the floor panel 26, the guide rollers 42 being supported on the brackets 46 which are carried on the upper

face of the floor 14. A latch means is provided on the carrier panel 22 for securing the carrier 20 in the nested position. The latch means includes a handle 60 exteriorly of the panel 22 operatively connected to a hook 62 on the internal wall of the panel 22, the hook 62 engaging a keeper 64 provided in a rearward edge portion of the door 32. Mayer does not disclose a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. Mayer also does not disclose a plurality of rails adapted to be disposed upon the sides above the floor of the cargo area. Mayer further does not disclose a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position.

U.S. Patent No. 5,692,792 to Klar discloses an expandable storage system for a vehicle. A vehicle 10 has a rear storage compartment 12, which has side walls 14 and a floor 16. Access to the storage compartment 12 is gained via a rear opening across which is mounted a tailgate 20 for selectable closing and opening thereof. An expandable storage system 22 includes an extendible storage member 24 which has a floor portion 26 defining front and rear edges 28 and 30 and side edges 32, and a pair of parallel side walls 34 connected to the side edges 32 of floor portion 26 so as to extend transversely upward therefrom, thereby to prevent undesired lateral movement of luggage supported thereon. As seen, the storage member 24 is mounted within the storage compartment 12 such that its side walls 34 are generally parallel to the storage compartment side walls 14, and so as to be selectively movable relative to the storage compartment along an axis 36, between retracted and extended positions. Klar does not disclose a load floor latching mechanism comprising a striker and a latch with one of the striker and the

latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position.

In contradistinction, claim 1 claims the present invention as an integrated extendable load floor assembly for a vehicle having a rear end with a floor and sides extending upwardly and along the floor to form a cargo area with an opening. The integrated extendable load floor assembly includes a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. The integrated extendable load floor assembly also includes a plurality of rails adapted to be disposed upon the sides above the floor of the rear end. The integrated extendable load floor assembly includes a load floor operatively cooperating with the rails for sliding movement therealong. The load floor includes an endgate pivotally attached to a rear longitudinal end thereof having an upright closed position and a horizontal open position. The endgate closes a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. The integrated extendable load floor assembly further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to vehicle structure to latch the load floor in a closed position.

The United States Court of Appeals for the Federal Circuit (CAFC) has stated in determining the propriety of a rejection under 35 U.S.C. § 103, it is well settled that the obviousness of an invention cannot be established by combining the teachings of the prior art absent some teaching, suggestion or incentive supporting the combination. See In re Fine, 837

F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 227 U.S.P.Q. 657 (Fed. Cir. 1985); ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 221 U.S.P.Q. 929 (Fed. Cir. 1984). The law followed by our court of review and the Board of Patent Appeals and Interferences is that “[a] prima facie case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art.” In re Rinehart, 531 F.2d 1048, 1051, 189 U.S.P.Q. 143, 147 (C.C.P.A. 1976). See also In re Lalu, 747 F.2d 703, 705, 223 U.S.P.Q. 1257, 1258 (Fed. Cir. 1984) (“In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings would appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification.”)

As to the differences between the prior art and the claims at issue, the primary reference to Mayer ‘790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Mayer ‘790 lacks a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. In Mayer ‘790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer ‘790 also lacks a plurality of rails adapted to be disposed upon the sides above the floor of the cargo area. In Mayer ‘790, means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover consisting in guide rollers 42

that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Mayer '790, the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

The secondary reference to Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position. Greig '419 also lacks a load floor operatively cooperating with rails for sliding movement therealong and including an endgate pivotally attached to a rear longitudinal end thereof having an upright closed position and a horizontal open position, the endgate closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12.

Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

The tertiary reference to Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks a plurality of rails adapted to be disposed upon the sides above the floor of the cargo area. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment. There is no suggestion or motivation in the art to combine Mayer '790, Greig '419, and Klar '792 together.

As to the level of ordinary skill in the pertinent art, Mayer '790 merely discloses an article carrier for an automobile trunk compartment that is normally nested within a compartment of an automobile body rear portion and is shiftable along a floor in the nested position out of the open end of the compartment to an extended position. Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a

hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system to be selectively movable relative to the storage compartment between retracted and extended positions. However, there is absolutely no teaching of a level of skill in the vehicle art to include a decklid for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position, a plurality of rails disposed upon the sides above the floor, a load floor operatively cooperating with the rails for sliding movement therealong, an endgate pivotally closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967). In fact, Mayer '790 lacks a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward, a plurality of rails disposed upon the sides above the floor of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. Greig '419 lacks a decklid pivotally secured to the rear end for pivotal longitudinal

movement rearward and a load floor including an endgate pivotally attached to a rear longitudinal end thereof closing a lower portion of the opening of the cargo area, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. Klar '792 lacks a plurality of rails disposed upon the sides above the floor of the cargo area and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. Further, there is no motivation in the art to substitute the decklid, endgate, and latching mechanisms of Greig '419 or Klar '792 for the decklid, endgate, and latching mechanism of Mayer '790 because Greig '419 and Klar '792 operate in an entirely different manner.

The present invention sets forth a unique and non-obvious combination of an integrated extendable load floor assembly providing expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle. The references, if combinable, fail to teach or suggest the combination of an integrated extendable load floor assembly for a vehicle including a decklid adapted to be pivotally secured to the rear end for pivotal longitudinal movement rearward to close an upper portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to open the upper portion of the opening of the cargo area in an open position, a plurality of rails adapted to be disposed upon the sides above the floor of the rear end, a load floor operatively cooperating with the rails for sliding movement therealong, an endgate pivotally closing a lower portion of the opening of the cargo area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, and a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch

connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position as claimed by Applicants. Thus, the Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 1 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 103.

As to claim 20, claim 20 claims the present invention as an automotive vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a cargo area with an opening. The automotive vehicle also includes a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. The automotive vehicle includes a load floor operatively cooperating with the rails for sliding movement therealong. The automotive vehicle further includes a decklid pivotally secured to the sides for pivotal longitudinal movement rearward to close a first portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to allow the load floor to be extended when the decklid is in the open position. The automotive vehicle includes an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position. The endgate closes a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. The automotive vehicle also includes an endgate latching mechanism that latches the endgate in the upright closed position. The automotive vehicle further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to vehicle structure to latch the load floor in a closed position.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 20. Specifically, Mayer '790 lacks a decklid pivotally secured to the sides for pivotal longitudinal movement rearward to close a first portion of the opening of the cargo area in a closed position and for pivotal longitudinal movement forward to allow the load floor to be extended when the decklid is in the open position. In Mayer '790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer '790 also lacks a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. In Mayer '790, means is provided connecting the floor panel 26 to the floor 14 for shifting movement thereover consisting in guide rollers 42 that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Mayer '790, the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks an endgate pivotally connected to a load floor and having a closed upright position and an open horizontal position with the endgate closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed

position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space 11.

Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks a plurality of rails spaced laterally and extending longitudinally between the sides above the floor. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to vehicle structure to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment. There is no suggestion or motivation in the art to combine Mayer '790, Greig '419, and Klar '792 together.

There is absolutely no teaching of a level of skill in the vehicle art to include a plurality of rails extending longitudinally between sides above a floor, a load floor operatively cooperating with the rails for sliding movement therealong, a decklid pivotally secured to the sides for pivotal longitudinal movement, an endgate pivotally connected to the load floor closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967). There is no motivation in the art to substitute the decklid, endgate, and latching mechanisms of Greig '419 or Klar '792 for the decklid, endgate, and latching mechanism of Mayer '790 because Greig '419 and Klar '792 operate in an entirely different manner.

Applicants are not attacking the references individually, but are clearly pointing out that each reference is deficient and, if combined (although Applicants maintain that they are not combinable), the combination is deficient. The present invention sets forth a unique and non-obvious combination of an integrated extendable load floor assembly providing expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle. The references, if combinable, fail to teach or suggest the combination of an automotive vehicle including a plurality of rails spaced laterally and extending longitudinally between sides above a floor, a load floor operatively cooperating with the rails for sliding movement therealong, a decklid pivotally secured to the sides for pivotal longitudinal movement rearward to close a first

portion of an opening of a cargo area in a closed position and for pivotal longitudinal movement forward to allow the load floor to be extended when the decklid is in the open position, an endgate pivotally connected to the load floor and having a closed upright position and an open horizontal position with the endgate closing a second portion of the opening of the cargo area when in the closed upright position adjacent a rear of the vehicle, whereby the decklid and the endgate cooperate together to close the opening of the cargo area, an endgate latching mechanism that latches the endgate in the upright closed position, and a load floor latching mechanism comprising a striker and a latch to latch the load floor in a closed position as claimed by Applicants.

Further, the CAFC has held that “[t]he mere fact that prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification”. In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). The Examiner has failed to show how the prior art suggested the desirability of modification to achieve Applicants’ invention. Thus, the Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 20 is allowable over the rejection under 35 U.S.C. § 103.

Claims 14, 16, and 18 were rejected under 35 U.S.C. § 103 as being unpatentable over Mayer ‘790 in view of Greig ‘419, allegedly well known prior art, and Klar ‘792. Applicants respectfully traverse this rejection.

As to claim 14, claim 14 claims the present invention as a vehicle including a body including a rear end having a floor and sides extending upwardly and along the floor to form a rear storage area having an opening. The vehicle also includes a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward to close a first portion of the opening of the rear storage area in a closed position and for pivotal longitudinal movement forward to

allow access to the rear storage area in an open position. The vehicle further includes an integrated extendable load floor assembly cooperating with the rear storage area. The integrated extendable load floor assembly includes at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. The load floor has selective sliding movement in and out of the rear storage area of the vehicle. The integrated extendable load floor assembly also includes a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position. The rear panel closes a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area. The integrated extendable load floor assembly further includes a load floor latching mechanism comprising a striker and a latch. One of the striker and the latch is connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch is connected to the body of the vehicle to latch the load floor in a closed position.

None of the references cited, either alone or in combination with each other, teach or suggest the claimed invention of claim 14. Specifically, Mayer '790 lacks a decklid pivotally secured to the rear end for pivotal longitudinal movement rearward to close a first portion of the opening of the rear storage area in a closed position and for pivotal longitudinal movement forward to allow access to the rear storage area in an open position. In Mayer '790, a pair of doors 32 and 34 are arranged in edge-to-edge relation and normally extend over and close the open top of the compartment 12 and are connected by hinge members 36 to the compartment side walls 16 and 18 for swinging movement. Mayer '790 also lacks at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. In Mayer '790, means is provided connecting the floor panel 26 to the floor 14 for shifting

movement thereover consisting in guide rollers 42 that are supported on brackets 46 which are carried on the upper surface of the floor 14. Mayer '790 further lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to the body of the vehicle to latch the load floor in a closed position. In Mayer '790, the latch means includes a handle 60 operatively connected to a hook 62 on the internal wall of the panel 22 and engaging a keeper 64 provided in a rearward edge portion of the door 32.

Greig '419 merely discloses a vehicle body including a rear panel with an opening to permit access to a rear deck, a hinged decklid to close the opening, and a moveable unit having a hinged tail gate. Greig '419 lacks a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of a vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area. In Greig '419, the movable unit 23 is completely disposed within the rear deck space 11 in a closed position and the decklid 13 fully closes the opening 12. Further, in Greig '419, the hinged tail gate or closure plate 26 does not close a lower portion of the rear deck space 11 when in the upright closed position because it is disposed forward of the opening and within the rear deck space and the decklid 13 does not cooperate with the tail gate or closure plate 26 to close the opening 12. Therefore, the decklid 13 of Greig '419 cannot act together ("cooperate") with the tail gate 26 to close the opening of the rear deck space

The Examiner has cited Peters et al., Girl '401, Powel '405, Webber, and Temp to show the arrangement of load floors sliding on rails disposed upon sides of rear storage areas. However, these patents do not disclose a load floor including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area.

Klar '792 merely discloses an expandable storage system for a vehicle having a rear storage compartment in which access is gained via a rear opening across which is mounted a tailgate for selectable closing and opening thereof and an expandable storage system including an extendible storage member mounted within the storage compartment such that its side walls are generally parallel to the storage compartment side walls, and so as to be selectively movable relative to the storage compartment along an axis, between retracted and extended positions. Klar '792 lacks at least one rail disposed upon each of the sides of the rear storage area and a load floor cooperating with the at least one rail. In Klar '792, the first track members 58 are attached to the vehicle storage compartment floor 16. Klar '792 also lacks a load floor latching mechanism comprising a striker and a latch with one of the striker and the latch connected to a rearward longitudinal end of the load floor and the other one of the striker and the latch connected to the body of the vehicle to latch the load floor in a closed position. In Klar '792, an apparatus 70 includes a spring-biased catch member which is affixed to the interior surface of the rear wall of the storage member 24 and a tongue element of the catch member 70 extends through an opening 74 formed in the floor portion 26 of the storage member 24, so as to be engageable with an annular recess 76 formed in the floor portion 16 of the vehicle storage compartment.

There is no motivation in the art to combine Mayer '790, Greig '419, allegedly well known prior art, and Klar '792 together.

There is absolutely no teaching of a level of skill in the vehicle art to include a decklid for pivotal longitudinal movement and an integrated extendable load floor assembly including a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of the vehicle and including a rear panel attached to a bottom of the load floor allowing selective positioning of the rear panel, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch a load floor in a closed position. The Examiner may not, because she doubts that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in the factual basis.

See In re Warner, 379 F. 2d 1011, 154 U.S.P.Q. 173 (CCPA 1967).

The present invention sets forth a unique and non-obvious combination of a vehicle having an integrated extendable load floor assembly providing expanded carrying capability of the cargo area in a conventional sedan type automotive vehicle without compromising the exterior appearance of the vehicle and integrated with the rear end of the vehicle. The references, if combinable, fail to teach or suggest the combination of a vehicle having a decklid pivotally secured to a rear end for pivotal longitudinal movement rearward to close a first portion of the opening of a rear storage area in a closed position and for pivotal longitudinal movement forward to allow access to the rear storage area in an open position, and an integrated extendable load floor assembly including a load floor cooperating with at least one rail for selective sliding movement in and out of a rear storage area of the vehicle and including a rear panel that is cooperatively attached to a bottom of a rear edge of the load floor allowing selective positioning of the rear panel in an upright closed position and a horizontal open position

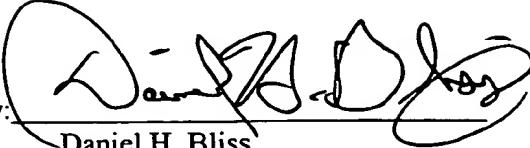
with the rear panel closing a second portion of the opening of the rear storage area when in the upright closed position adjacent a rear of the vehicle, whereby the decklid and the rear panel cooperate together to close the opening of the rear storage area, and a load floor latching mechanism comprising a striker and a latch to latch a load floor in a closed position as claimed by Applicants. Thus, the Examiner has failed to establish a case of prima facie obviousness. Therefore, it is respectfully submitted that claim 14 and the claims dependent therefrom are allowable over the rejection under 35 U.S.C. § 102(b).

Claim 7 was rejected under 35 U.S.C. § 103 as being unpatentable over Mayer '790 and further in view of allegedly well known prior art. Applicants respectfully traverse this rejection for the same reasons given above to claim 1.

Obviousness under § 103 is a legal conclusion based on factual evidence (In re Fine, 837 F.2d 1071, 1073, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988), and the subjective opinion of the Examiner as to what is or is not obvious, without evidence in support thereof, does not suffice. Since the Examiner has not provided a sufficient factual basis, which is supportive of his/her position (see In re Warner, 379 F.2d 1011, 1017, 154 U.S.P.Q. 173, 178 (C.C.P.A. 1967), cert. denied, 389 U.S. 1057 (1968)), the rejections of claims 1 through 3, 5, 7, 14, 16, 18, and 20 are improper. Therefore, it is respectfully submitted that claims 1 through 3, 5, 7, 14, 16, 18, and 20 are allowable over the rejections under 35 U.S.C. § 103.

Based on the above, it is respectfully submitted that the claims are in a condition for allowance or in better form for appeal. Applicants respectfully request reconsideration of the claims and withdrawal of the final rejection. It is respectfully requested that this Amendment be entered under 37 C.F.R. 1.116.

Respectfully submitted,

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